

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1298
Ways and Means

(Delegate Kaiser, *et al.*)

Budget and Taxation

Recordation and Transfer Taxes - Exemptions - Domestic Partners

This bill exempts the transfer of property between domestic partners and former domestic partners from the recordation tax and State and county transfer taxes under specified circumstances. Specified evidence of domestic partnership or former domestic partnership must be submitted in order to qualify for the exemptions provided for by the bill.

The bill takes effect July 1, 2005.

Fiscal Summary

State Effect: Potential decrease in State transfer tax revenue. Expenditures would not be affected.

Local Effect: Potential decrease in local transfer and recordation tax revenue. Local expenditures would not be affected.

Small Business Effect: None.

Analysis

Current Law: Property subject to a mortgage or deed of trust that is transferred between a spouse, former spouse, son, daughter, stepson, stepdaughter, parent, stepparent, son-in-law, daughter-in-law, stepson-in-law, stepdaughter-in-law, parent-in-law, stepparent-in-law, grandchild, or step grandchild is exempt from transfer and recordation taxes.

Background: The counties and Baltimore City are authorized to impose locally established recordation tax rates on any business or person: (1) conveying title to real property; or (2) creating or giving notice of a security interest (*i.e.*, a lien or encumbrance) in real or personal property, by means of an instrument of writing.

The State and counties also impose a transfer tax. The State transfer tax rate is 0.5% of the consideration payable for an instrument of writing conveying title to, or a leasehold interest in, real property (0.25% for first-time Maryland home buyers). In some jurisdictions a local property transfer tax may be imposed on instruments transferring title to real property. A distinction is made in the local codes between instruments transferring title such as a deed and certain leaseholds and instruments securing real property such as a mortgage. Except in Prince George's County, mortgages are not subject to the tax.

State Fiscal Effect: State special fund revenues would decrease to the extent that properties are transferred between domestic partners. However, the amount of any decrease depends on the number of domestic partnerships or former domestic partnerships that exist in Maryland, the number of partners that own property, the number that subsequently transfer property, and the amount of consideration for each property. However, at this time the number of domestic partnerships and the number of property transfers between domestic partners cannot be reliably estimated.

As a point of reference, the State transfer tax on a property valued at \$250,000 is \$1,250. An exemption pursuant to the bill would result in a special fund revenue decrease of \$1,250 for each property transfer affected.

Local Fiscal Effect: Local recordation and transfer tax revenues would decrease to the extent that properties are transferred between domestic partners. However, the amount of any decrease depends on the number of domestic partnerships or former domestic partnerships that exist in Maryland, the number of partners that own property, the number that subsequently transfer property, and the amount of consideration for each property. However, at this time the number of domestic partnerships and the number of property transfers between domestic partners cannot be reliably estimated.

As a point of reference, the Anne Arundel County transfer tax is 1% and the county recordation tax is \$3.50 per \$500 of consideration. On a property valued at \$250,000 the transfer tax is \$2,500 and the recordation tax is \$1,750. An exemption pursuant to the bill would result in a county revenue decrease of \$4,250.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Montgomery County, Prince George's County, Garrett County, Dorchester County, Baltimore County, Anne Arundel County, Department of Legislative Services

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